

### **REMARKS**

This communication is filed in response to the Office Action mailed on April 8, 2004. Claim 7 is amended, no claims are canceled herein, and no claims are added. As a result, claims 7-12 are now pending in this Application.

#### **§102 Rejection of the Claims**

Claims 7-12 were rejected under 35 USC § 102(b) as being anticipated by Kates (US 5,430,641). First, the Applicant does not admit that Kates is prior art, and reserves the right to swear behind this reference in the future. Second, because Kates does not disclose the identical invention as claimed, the Applicant respectfully traverses this rejection.

Amended independent claim 7 (and claims 8-12 that depend from it) recites "... wherein the current path is configured to pass a sink current when the on state is deactivated, and wherein the switch is configured to pass a source current in a direction opposite the sink current when the on state is activated." This is not taught or suggested by Kates, which the Office Action notes has a current path defined by R8 and Q5 that operates when Q2 is turned off.

It is respectfully noted that anticipation under 35 USC § 102 requires the disclosure in a single prior art reference of each element of the claim under consideration. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). "The *identical invention* must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131 (emphasis added).

Since Kates does not teach the operation of a device "... wherein the current path is configured to pass a sink current when the on state is deactivated, and wherein the switch is configured to pass a source current in a direction opposite the sink current when the on state is activated", what is disclosed by Kates is not identical to the subject matter of the embodiments



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AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111  
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Page 4  
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claimed, and therefore, the rejection of claims 7-12 under § 102 is improper. Reconsideration and allowance are respectfully requested.

CONCLUSION

The Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the Applicant's attorney at (210) 308-5667 to facilitate prosecution of this Application. If, after considering the content of this document, the Examiner is not firmly convinced of the major differences between what is claimed by the Applicant and what is disclosed by Kates, the Applicant respectfully requests an interview with the Examiner. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date July 7, 2004

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7 day of July, 2004.

**CANDIS BUENDING**

Name

Signature